

The subject matter of challenge in this Writ petition is an order dated 20.3.2001 passed by the Chairman Rubber Board, the respondent, by which the petitioner was inflicted with the punishment of reduction of pay to the lowest stage from Rs. 3,425/- to Rs. 3,050.00 as was applicable to the Jr. Assistant at that time, on the basis of the enquiry report, wherein the charges of misconduct levelled against him were found to be proved.

2. I have heard Mr. S. Medhi, learned counsel for the petitioner and Mr. B. D. Das, learned counsel appearing for the respondents.

3. The petitioner entered into service under the respondent Rubber Board in the year 1991 as Jr. Assistant and was posted at the Regional Office, Jorhat. While the petitioner was rendering his service, he was placed under suspension on 22.5.98 in contemplation of drawal of a disciplinary proceeding on the ground of alleged disorderly behaviour in the office and assault of his superior officer as well as for subverting discipline in the office. The aforesaid suspension order was followed by memo of charge sheet dated 15.10.98 leveling the following charges against the petitioner -

1) The incumbent disrupted the peaceful functioning of the Regional Office, Jorhat on 1-5-98 by shouting and using abusive and threatening language during office hours in the office against his superiors ;
2) took the table and chair allotted to him from his room to the office room of Asst. Section Officer and exhibited a conduct of insubordination ;
3) instead of keeping the file/papers and records of the Board in the proper place, resorted to litter the same on the floor and exhibited a conduct subversive of discipline, dignity and decorum expected from him as an employee of the Board , and
4) in connivance with Shri Badan Chandra Kachari, Peon/Watcher of the Regional Office, Jorhat manhandled Shri P. Yesodharan, Development Officer of the Regional Office, Jorhat by giving severe punches on his head and face, in front of other staff and acted in a manner unbecoming of an employee of the Board.

4. Alongwith the charge memo list of documents and witnesses sought to be relied on by the department were also furnished. The petitioner submitted his written statement of defence on 1.2.98 denying the allegations levelled against him. The reply furnished by the petitioner by way of defence statement having failed to evoke positive impact from the disciplinary authority, they proceeded to hold a departmental enquiry and accordingly an inquiry officer was appointed.

5. During the course of inquiry as many as five witnesses on behalf of the department were examined and the petitioner also examined three witnesses in support of his defence version.

The inquiry officer after completion of the enquiry submitted his report on 31.10.2000 holding the charges levelled against the petitioner as proved. Thereafter, the matter was placed before the disciplinary authority and the disciplinary authority, who is the Chairman of the Board, found that all the charges levelled against the petitioner having been proved during enquiry, inflicted punishment of reduction of pay to the lowest stage from Rs. 3,425.00 to Rs. 3050.00 per month.

6. The petitioner unsuccessfully filed an appeal against the aforesaid order of punishment which was rejected by the authority vide order dated 3.1

.02 holding that the penalty imposed by the disciplinary authority is proportionate to the level of acts of omission and commission on the part of the petitioner and consequently did not interfere with the order passed by the disciplinary authority. Challenging the impugned order of punishment dated 20.3.2001 as well as the appellate order dated 3.6.02, rejecting the departmental appeal, the petitioner has filed this Writ Petition.

7. Mr. S. Medhi, learned counsel for the petitioner submits that the department having failed to prove the charges levelled against the petitioner during the enquiry, inquiry officer committed grave error in law and facts and in holding all the charges levelled against the petitioner as proved. Both the disciplinary authority as well as the appellate authority having failed to rectify the aforesaid lacuna and defect committed by the inquiry officer, the respective orders of punishment as well as dismissal of the appeal are also bad in law. Mr. B.D. Das, learned counsel for the respondent Board however submits that the charges levelled against the petitioner are very serious in nature and the charges having been proved no illegality has been committed in passing the impugned order.

8. The submissions of the learned counsel led me to meticulously go through the materials available on record including the report of the inquiry officer. On the face of it, amongst the charges framed against the petitioner, the charge No. 4 is the very serious one whereas other three charges are not as much as serious as charge like that of charge No. 4.

9. Accordingly I deem it proper to consider in the first hand to see as to how far the department has been able to prove the charge No. 4 levelled against the petitioner.

While discussing the charge No. 4 the inquiry officer did not accept the version of the management that the petitioner in connivance with one Badan Ch. Kachari, peon/watcher of the Regional Office, Jorhat manhandled the Development Officer Sri P. Yesodharan by giving severe punches on his head and face in front of other staff. The inquiry officer also found from the deposition of SW 1 that the petitioner alongwith Badan Ch. Kachari planned to attempt murder Sri P. Yesodharan, Development Officer of the Regional Office, Jorhat. It is the further finding of the Enquiry Officer that SW 2 in his statement Ext- 5 had not reported that the petitioner did not hit Sri P. Yesodharan, but when Yesodharan asked the petitioner about his misconduct of throwing the office files/records at that time, some argument took place between the two and hearing such arguments the other delinquent viz. Badan Ch. Kachari came to the room where Mr. Yesodharan and the petitioner were speaking to each other. The inquiry officer ultimately did not find that involvement of the petitioner in attacking Sri Yeshodharan in spite of such findings, the inquiry officer found that the charge No. 4 levelled against the petitioner has been proved. The enquiry officer himself also held that none of the witnesses has witnessed the petitioner to have committed the acts as indicated in charge no 4.

10. Meticulous analysis of the finding on charge No. 4 would go to show that the charge No. 4 was not at all proved during the course of inquiry against the petitioner and there is no evidence on record to hold the said charge as proved. As indicated above the charge No. 4 which relates to manhandling of P. Yasodharan the Development Officer is a serious charge and the same could not be proved by any iota of evidence.

11. In view of the above discussions, the finding of the inquiry officer on charge No. 4 holding the same as proved cannot stand. The disciplinary authority before whom the matter was placed has proceeded to inflict punishment on the basis that all the charges including the charge No. 4 leveled against the petitioner have been duly proved during inquiry. The disciplinary authority on c

areful consideration of the inquiry report alongwith the evidence on record held that the conclusion drawn by the inquiry officer is not wrong. On such finding the disciplinary authority further held that considering the grave nature of the proved charges the petitioner should get deterrent punishment and accordingly he was awarded punishment as indicated above.

12. Mr. B.D. Das, learned counsel for the petitioner has fairly submitted that in the event the finding on charge No. 4 falls through, the order of punishment of reduction of pay scale of the petitioner to the lowest stage may not be permissible.

13. The impugned order of imposition of penalty passed by the disciplinary authority, though is a speaking order, I find that the disciplinary authority missed on certain vital aspect of the matter to consider in passing the impugned order. It appears that the disciplinary authority acted on the ultimate finding of the inquiry officer as reflected in his report to the extent that all the charges leveled against the petitioner including the charge No. 4 have been proved. But from the materials placed on record it amply demonstrates that the charge No. 4 was not at all proved as held above. The disciplinary authority proceeded to punish the petitioner on the basis that the petitioner was involved in the commission of such offence going to the extent of manhandling the higher officer. Accordingly on the failure of the management to prove charge No. 4 the punishment imposed upon the petitioner cannot be sustained and Mr. Das fairly agrees to this situation. Accordingly the punishment imposed upon the petitioner fixing his pay scale at the lowest stage from 3,425.00 to Rs. 3050.00 cannot stand and accordingly the same stands set aside and quashed.

14. Upon perusal of the charge Nos. 2 and 3 it would disclose that those are the charges not very serious one which can be adequately termed as minor charges.

15. Taking note of the facts and circumstances and the situation involved in the case and in view of the above discussions and findings, the matter is remitted back to the disciplinary authority for considering the nature of penalties that may be inflicted upon the petitioner for commission as against the charge no. 1, 2 & 3, which prima facie attracts minor penalties. This shall be done within a period of three months from the date of receipt of this order.

16. In view of the quashing of the punishment inflicted upon the petitioner, all necessary consequential benefits shall be provided to the petitioner by the authority, subject to minor punishment if any, that may be inflicted for the allegation levelled in charge no. 1, 2 & 3.

17. In the result this Writ petition stands allowed to the extent indicated above.